

# STATE OF CALIFORNIA

## Office of Administrative Law



### **REQUEST FOR PROPOSALS FOR THE PUBLICATION OF THE CALIFORNIA CODE OF REGULATIONS AND RELATED DOCUMENTS**

**RFP-CCR-2005**

October 4, 2005

William L. Gausewitz, Director  
Linda C. Brown, Deputy Director

|   |               |
|---|---------------|
| <b>1. INTRODUCTION</b>                                | <b>- 4 -</b>  |
| 1.1. PURPOSE/OVERVIEW                                 | - 4 -         |
| 1.2. NOTICE TO PERSONS WITH DISABILITIES              | - 4 -         |
| 1.3. OAL CONTACT INFORMATION                          | - 5 -         |
| <b>2. INFORMATION AND DESCRIPTION OF PUBLICATIONS</b> | <b>- 6 -</b>  |
| 2.1. SUMMARY OF STATE REGULATORY PROCESS              | - 6 -         |
| 2.2. THE OFFICIAL CALIFORNIA CODE OF REGULATIONS      | - 7 -         |
| 2.2.1. OVERVIEW                                       | - 7 -         |
| 2.2.2. TITLES   | - 7 -         |
| 2.2.3. ORGANIZATION OF THE CODE                       | - 8 -         |
| 2.2.4. AUTHORITY AND REFERENCE CITATIONS              | - 8 -         |
| 2.2.5. HISTORY NOTES                                  | - 9 -         |
| 2.2.6. UPDATING THE CODE                              | - 9 -         |
| 2.2.7. CITING THE CODE                                | - 9 -         |
| 2.2.8. SUBSCRIPTION INFORMATION                       | - 9 -         |
| 2.3. THE CALIFORNIA REGULATORY NOTICE REGISTER        | - 10 -        |
| 2.3.1. OVERVIEW                                       | - 10 -        |
| 2.3.2. NOTICE REGISTER CONTENTS                       | - 11 -        |
| <b>3. MINIMUM QUALIFICATIONS FOR PROPOSERS</b>        | <b>- 12 -</b> |
| 3.1. BUSINESS REQUIREMENTS                            | - 12 -        |
| 3.1.1. FINANCIAL CAPABILITY                           | - 12 -        |
| 3.1.2. PLACE OF PERFORMANCE                           | - 12 -        |
| 3.1.3. SUBCONTRACTORS                                 | - 13 -        |
| 3.2. EXPERIENCE                                       | - 13 -        |
| 3.2.1. EXPERTISE AND STAFFING                         | - 13 -        |
| 3.2.2. WORK SAMPLES                                   | - 14 -        |
| 3.2.3. CUSTOMER REFERENCES                            | - 14 -        |
| 3.3. IMPLEMENTATION AND TRANSITION PLAN               | - 14 -        |
| 3.4. AVAILABILITY AND OPERATIONAL RECOVERY PLAN       | - 15 -        |
| 3.5. ACCURACY PLAN                                    | - 15 -        |
| 3.6. ONLINE CCR PLAN                                  | - 16 -        |
| 3.7. SCOPE OF WORK PERFORMANCE PLAN                   | - 17 -        |
| <b>4. SCOPE OF WORK</b>                               | <b>- 18 -</b> |
| 4.1. OVERVIEW   | - 18 -        |
| 4.2. INTELLECTUAL PROPERTY RIGHTS                     | - 18 -        |
| 4.3. REQUIRED PUBLICATION SERVICES                    | - 18 -        |
| 4.3.1. OFFICIAL CCR MASTER DATABASE                   | - 18 -        |
| 4.3.2. OFFICIAL CALIFORNIA CODE OF REGULATIONS        | - 19 -        |
| 4.3.2.1. CCR SUPPLEMENT                               | - 20 -        |
| 4.3.2.2. MASTER TABLE OF CONTENTS                     | - 20 -        |
| 4.3.2.3. UPDATING TABLES OF CONTENTS                  | - 20 -        |
| 4.3.3. MASTER INDEX                                   | - 20 -        |
| 4.3.4. CD-ROM CCR                                     | - 21 -        |
| 4.3.5. ONLINE CCR                                     | - 21 -        |
| 4.3.6. CALIFORNIA REGULATORY NOTICE REGISTER          | - 21 -        |
| 4.3.7. ONLINE NOTICE REGISTER                         | - 22 -        |

|           |  |               |
|-----------|--|---------------|
| 4.3.8.    | TRANSMISSION OF MATERIAL TO BE PUBLISHED             | - 22 -        |
| 4.3.9.    | COPIES OF PUBLICATIONS                               | - 23 -        |
| 4.3.10.   | ACCURACY   | - 24 -        |
| 4.4.      | COMPENSATION   | - 24 -        |
| <b>5.</b> | <b>RULES GOVERNING COMPETITION</b>                   | <b>- 26 -</b> |
| 5.1.      | KEY ACTION DATES                                     | - 26 -        |
| 5.2.      | BIDDER'S CONFERENCE                                  | - 26 -        |
| 5.3.      | INTEREST IN SOLICITATION PROCESS                     | - 26 -        |
| 5.4.      | PROPOSAL SUBMISSION REQUIREMENTS                     | - 27 -        |
| 5.4.1.    | MODIFICATION OR WITHDRAWAL                           | - 28 -        |
| 5.5.      | ADDENDA  | - 28 -        |
| 5.6.      | ERROR OR AMBIGUITY IN RFP DOCUMENTS                  | - 29 -        |
| 5.7.      | FALSE OR MISLEADING STATEMENTS                       | - 29 -        |
| 5.8.      | EVALUATION   | - 29 -        |
| 5.8.1.    | GENERAL  | - 29 -        |
| 5.8.2.    | EVALUATION STAGES                                    | - 29 -        |
| 5.8.3.    | PRODUCT DEMONSTRATION                                | - 30 -        |
| 5.8.4.    | EVALUATION CRITERIA                                  | - 30 -        |
| 5.8.5.    | TIED BIDS  | - 33 -        |
| 5.9.      | AWARD AND PROTEST                                    | - 33 -        |
| 5.9.1.    | NOTICE OF AWARD                                      | - 33 -        |
| 5.9.2.    | AWARD OF CONTRACT                                    | - 33 -        |
| 5.9.3.    | PROTEST  | - 33 -        |
| 5.10.     | CONFIDENTIALITY/DISPOSITION OF PROPOSALS             | - 33 -        |
| 5.11.     | AGREEMENT EXECUTION AND PERFORMANCE                  | - 34 -        |
| <b>6.</b> | <b>PREFERENCE PROGRAMS, APPLICABLE STATE LAWS</b>    | <b>- 35 -</b> |
| 6.1.1.    | SMALL BUSINESS PREFERENCE                            | - 35 -        |
| 6.1.2.    | DISABLED VETERAN BUSINESS ENTERPRISES (DVBE)         | - 35 -        |
| 6.1.3.    | TARGET AREA CONTRACT PREFERENCE REQUEST              | - 35 -        |
| 6.1.4.    | LOCAL AREA MILITARY BASE RECOVERY ACT                | - 35 -        |
| 6.1.5.    | ENTERPRISE ZONE PREFERENCE REQUEST                   | - 35 -        |
| 6.1.6.    | AIR OR WATER POLLUTION                               | - 36 -        |
| 6.1.7.    | FAIR EMPLOYMENT AND HOUSING                          | - 36 -        |
| 6.1.8.    | ADDITIONAL APPLICABLE STATE LAWS                     | - 36 -        |
| <b>7.</b> | <b>REQUIRED ATTACHMENTS</b>                          | <b>- 37 -</b> |
| 7.1.      | REQUIRED ATTACHMENT CHECKLIST                        | - 37 -        |
| 7.2.      | Payee Data Record (STD 204)                          | - 38 -        |
| 7.3.      | Contractor Certification Clauses (CCC 1005)          | - 39 -        |
| 7.4.      | Proposal/Proposer Certification Sheet                | - 40 -        |
| 7.5.      | Volume 2: Compensation Sheet                         | - 41 -        |
| <b>8.</b> | <b>PROPOSED STANDARD AGREEMENT (STD.213)</b>         | <b>- 43 -</b> |
| 8.1.      | Exhibit A, Statement of Work                         | - 44 -        |
| 8.2.      | Exhibit B, Annual License Fee and Royalty Provisions | - 45 -        |
| 8.3.      | Exhibit C, General Terms and Conditions              | - 46 -        |
| 8.4.      | Exhibit D, Special Terms and Conditions              | - 47 -        |

**9. APPENDIXES****- 54 -**

|      |  |       |
|------|--|-------|
| 9.1. | Sample California Regulatory Notice Register | TAB 1 |
| 9.2. | Sample Text from the Official CCR            | TAB 2 |
| 9.3. | Sample Text from the Weekly CCR Supplement   | TAB 3 |
| 9.4. | List of CCR Publications                     | TAB 4 |
| 9.5. | Sample Text of a Regulation                  | TAB 5 |
| 9.6. | Internet CCR Website Usage Analysis          | TAB 6 |

## 1. INTRODUCTION

The State of California Office of Administrative Law (“OAL”) seeks services from a qualified contractor to publish the Official California Code of Regulations (“CCR”) and update the CCR weekly by publishing the California Code of Regulations Supplement (“Supplement”), to publish the weekly California Regulatory Notice Register (“Notice Register”), and to provide free online access to the CCR and the Notice Register from a link on OAL’s website.

The CCR currently consists of 28 separate titles containing approximately 23,000 pages. The length of the Notice Register varies each week. Detailed information concerning the CCR, Supplement and Notice Register is provided in Section 2 and Section 4, and samples of the documents can be found in the Appendix (Tabs 1, 2 and 3).

The contractor will not be paid by the state for services rendered under the CCR publication contract. The contractor will be granted the exclusive right to publish and use the California Code of Regulations (excluding Title 24) and the California Regulatory Notice Register, to provide the CCR and Notice Register to third parties in whatever form and by whatever means it desires, and to license the publication of the CCR and Notice Register to other publishers, subject to the licensing and royalty provisions of the CCR publication contract, for the term of the contract under the conditions specified. The contract shall begin January 1, 2006 and have a term of three years, with two optional 1-year extensions.

All interested parties are invited to submit written proposals on the terms and conditions specified in this Request for Proposals. See Section 5, “Rules Governing Competition,” for proposal submission requirements, deadlines and other Key Action Dates.

### **1.1. PURPOSE/OVERVIEW**

Government Code section 11344 requires OAL to provide for the official compilation, printing, and publication of state regulations in a document known as the Official California Code of Regulations, with weekly updates issued in a document known as the California Code of Regulations Supplement (hereafter collectively referred to as the “CCR” unless otherwise specified). Government Code section 11344.1 requires OAL to provide for the publication of the California Regulatory Notice Register, a weekly publication which contains state agencies’ Notices of proposed action to adopt, amend or repeal regulations, and other information pertaining to regulatory actions. State law requires OAL to provide free Internet access to the CCR and the Notice Register.

### **1.2. NOTICE TO PERSONS WITH DISABILITIES**

It is the policy of the State to make every effort to comply with the nondiscrimination requirements of Title II of the Americans with Disabilities Act by ensuring that the opportunity to participate in this procurement process is made available to persons with disabilities. For persons with a disability needing reasonable accommodation to participate in the procurement process, or for persons having questions regarding reasonable

accommodation for the procurement process, please contact the OAL contact person listed below.

### **1.3. OAL CONTACT INFORMATION**

The Procurement Official and the address for all questions, comments, or responses or protests to this RFP is:

Linda C. Brown  
Deputy Director  
Office of Administrative Law  
300 Capitol Mall, Suite 1250  
Sacramento, California 95814  
(916) 323-8915  
[lbrown@oal.ca.gov](mailto:lbrown@oal.ca.gov)

## 2. INFORMATION AND DESCRIPTION OF PUBLICATIONS

### 2.1. *SUMMARY OF STATE REGULATORY PROCESS*

Each year, state agencies propose thousands of regulations which, when adopted, affect virtually every economic activity and every segment of the California public. The Administrative Procedure Act (“APA”) establishes procedural requirements for the adoption, amendment or repeal of these state regulations.

To initiate a rulemaking action, a state agency must publicly announce its intended action by having a Notice published in the weekly **California Regulatory Notice Register**. The publication of the Notice initiates a one-year period within which a state agency must complete the rulemaking action, solicits meaningful public participation, and defines the scope of rulemaking. The Notice Register, which is published each Friday, also includes other important information pertaining to rulemaking.

Before proposed regulations can become effective, they must generally be reviewed and approved by OAL. OAL has 30 working days to review a regular rulemaking before it must approve or disapprove the regulation. OAL files paper copies of approved regulations with the Secretary of State almost daily. Once approved by OAL and filed with the Secretary of State, a regulation is published in the **Official California Code of Regulations**. A duly adopted and published regulation has the force of law.

#### OVERVIEW OF OAL’S PROCESS

- A state agency initiates a regular rulemaking action by publishing Notice in the Notice Register. The agency submits its proposed Notice to OAL ten days prior to the desired publication date. OAL has three days to review the proposed Notice to ensure it complies with statutory requirements. At times, agencies contact OAL to request changes in their proposed Notice.
- OAL compiles the approved Notices and submits them to the publisher each Friday morning for publication in the weekly Notice Register to be published on the following Friday.
- After Notice has been published, the rulemaking agency may proceed with the other requirements of the Administrative Procedure Act (“APA”) (public hearing, public comment period, etc.).
- After the agency completes the requirements of the APA, it submits a certified original regulation and six copies (plus one complete copy of the rulemaking record) to OAL, using underline (or italics) and strikeout to demonstrate additions and deletions, respectively, to the text of the current CCR.
- OAL sends one unofficial advance copy of the proposed regulation to the current publisher via overnight delivery at the publisher’s expense.
- The remaining copies of proposed regulations and the rulemaking record undergo legal review by OAL. OAL has 30 working days to review a regular rulemaking before it must approve or disapprove the regulation.

- There are frequently changes in text to the original submitted regulation. OAL often must correct or change text, either to match earlier filed text or to correct errors.
- If approved by OAL, OAL files the original approved regulation with the Secretary of State; and provides the publisher with a copy of the regulation stamped filed by the Secretary of State. OAL may also provide the publisher with a “custom” history note and unusual effective date information, if relevant.
- There are certain exceptions to the process described above: Other types of filings also come to OAL such as emergency filings which require OAL to act within 10 calendar days; as well as “print only” or other exceptional filings which requiring filing with the Secretary of State and which are to be published in the CCR, but which are legally exempt from OAL review.

## **2.2. THE OFFICIAL CALIFORNIA CODE OF REGULATIONS**

### **2.2.1. OVERVIEW**

The Official California Code of Regulations consists of 28 Titles in 39 three-ring binders containing approximately 23,000 pages (8½ by 11 inches). Title 24, the Building Standards Code, is published separately. The CCR is updated weekly by replacing individual pages with new pages from the California Code of Regulations Supplement. The number of pages in each weekly Supplement varies depending on the number of regulations adopted. Sample CCR and Supplement text may be found in the Appendix (Tabs 2 and 3).

The creation of the Official CCR requires the contractor to receive all approved new, amended, or repealed regulations issued by over 250 state agencies which have been approved by OAL and filed with the Secretary of State, and prepare them for integration into the appropriate CCR Title(s). This process involves, on a daily basis, the contractor engaging in extensive editorial analysis and preparation, conducting a comparison to the existing regulatory language, initiating dialogue with the OAL concerning any discrepancies, updating History Notes, indexing, annotating, and creating additional or point pages in the ongoing content set where necessary for weekly updates.

In 2004, there were more than 5,500 changes to CCR sections (corresponding to 14,382 individual page alterations). The contractor must distribute revised text of regulations on a timely basis to subscribers for all full sets, individual Title(s) or any other product iteration affected by the changed regulations for that week.

### **2.2.2. TITLES**

The CCR is currently divided into the following 28 titles:

1. General Provisions
2. Administration
3. Food and Agriculture
4. Business Regulations
5. Education
6. Governor

7. Harbors and Navigation
8. Industrial Relations
9. Rehabilitative and Developmental Services
10. Investment
11. Law
12. Military and Veterans Affairs
13. Motor Vehicles
14. Natural Resources
15. Crime Prevention and Correction
16. Professional and Vocational Regulations
17. Public Health
18. Public Revenues
19. Public Safety
20. Public Utilities and Energy
21. Public Works
22. Social Security
23. Waters
24. Building Standards (**\*\*SEE NOTE BELOW\*\***)
25. Housing and Community Development
26. Toxics
27. Environmental Protection
28. Managed Health Care

**\*\*NOTE: Title 24 is NOT included in the CCR contract\*\***

### **2.2.3. ORGANIZATION OF THE CODE**

The formal hierarchical structure of the CCR is as follows:

1. Title
2. Division
3. Chapter
4. Article
5. Section

Each title of the California Code of Regulations is divided into sequentially numbered regulation sections (e.g. section 150 of Title 10). Section numbers do not repeat within a title, i.e., there can be only one section 150 in each title. Rulemaking agencies have blocks of section numbers called Divisions assigned to them by OAL. Divisions and other individual components of the hierarchy may be further subdivided as determined by each agency. Most regulation sections are also subdivided (e.g. section 150 (a), (b), (c), or section 150 (a) (1), (2), (3) etc.).

### **2.2.4. AUTHORITY AND REFERENCE CITATIONS**

Authority and reference notes follow the text of each regulation printed in the California Code of Regulations. The information in these notes is essential to an understanding of the

statutory basis for the regulation. These notes, which are prepared by the rulemaking agency and reviewed and approved by OAL, identify the statutory authority for the particular regulation and identify the statutes implemented, interpreted, or made specific by the regulation.

### **2.2.5. HISTORY NOTES**

A history note or series of history notes also follows the text of each regulation section printed in the CCR. Based on instructions from OAL, the publisher (not the rulemaking agency) prepares the routine history notes, while OAL prepares custom history notes. Most history notes specify the nature of the action regarding the section, the date the action was filed with the Secretary of State, the operative date of the action, and the number of the California Regulatory Code Supplement in which the action was published as an update to the CCR. The history notes are used to research earlier versions of particular regulation sections.

### **2.2.6. UPDATING THE CODE**

OAL requires state agencies to use underline or italic to accurately indicate additions to the CCR, and strikeout to accurately indicate deletions from the CCR. Once a proposed regulation has been approved by OAL, it is filed with the Secretary of State and a copy is provided to the publisher. The publisher uses the underline (or italics) and strikeout to discern changes to the existing text of the CCR. A sample regulatory filing, showing the use of underline and strikeout to indicate changes to the CCR, may be found in the Appendix (Tab 5).

The regulations filed in each calendar week make up a weekly “register,” which the contractor must publish as the weekly California Regulatory Code Supplement to update the CCR. The contractor numbers the weekly registers by year and week. The contractor prints the text changes and mails them to subscribers who then replace the affected pages in their CCR binders. A sample issue of the Supplement may be found in the Appendix (Tab 3).

### **2.2.7. CITING THE CODE**

OAL utilizes the California Style Manual format for citation. Regulations are normally cited simply by title and section number. Because each section number is unique within a Title, it is not necessary to list the division, chapter, or article to find the section cited. However, it may be appropriate (such as for a new or amended regulation or for a repeal) to add the register cross-reference.

### **2.2.8. SUBSCRIPTION INFORMATION**

According to the current publisher, the subscriber base includes California state agencies and courts, attorneys, and regulated professions and businesses including construction

companies, hospitals and medical professionals, tax professionals, human resource departments, environmental compliance officers and mobile home parks.

OAL does not have current subscription numbers, but a count of packing slips that accompanied orders for updates of the Official CCR for each month in 2004 is provided below based on a report from the current publisher. The current publisher reports that the average number of packing slips per week in 2004 was approximately 5,700. The following figures represent the number of packing slips generated each month in 2004 for shipments of new purchases and updates of CCR publications:

|           |        |
|-----------|--------|
| January   | 38,271 |
| February  | 15,531 |
| March     | 28,363 |
| April     | 27,159 |
| May       | 29,570 |
| June      | 21,550 |
| July      | 30,615 |
| August    | 20,087 |
| September | 18,196 |
| October   | 32,307 |
| November  | 16,568 |
| December  | 25,144 |

The current publisher also reported mailing a total of 26,195 subscription renewal Notices between July 2004 and June 2005. The current publisher reports that most often, repeat mailings to a single customer are necessary before a subscription renewal is secured.

In addition to selling full sets of the CCR in hardcopy and electronic formats, and licensing all or part of the CCR to other publishers, the contractor may provide various permutations and compilations of segments of the CCR for sale as separate units, generally by topic area. A listing of the various permutations and compilations the current publisher offered for sale in August 2005 may be found in the Appendix (Tab 4).

## **2.3. THE CALIFORNIA REGULATORY NOTICE REGISTER**

### **2.3.1. OVERVIEW**

The California Regulatory Notice Register (“Notice Register”) is published each Friday to inform the public of state agencies’ intent to engage in rulemaking and provide other important information pertaining to rulemaking. A sample copy of the Notice Register may be found in the Appendix (Tab 1) and proposers may view additional issues at [www.oal.ca.gov](http://www.oal.ca.gov).

The Internet version of the Notice Register currently consists of production of the print version in a PDF file format using Adobe Acrobat software. The current publisher provides OAL with the PDF version of the Notice Register, and OAL posts the Notice Register on its website on the Friday publication date for the hardcopy version. OAL currently maintains

Internet access to each issue of the Notice Register for a minimum of eighteen (18) months following its publication date.

Inclusion of the Notice Register in the CCR publication contract is a new development for OAL. OAL is open to suggestions for changes in the current process that will ensure both accurate and timely production of the Notice Register, and a manageable workload for OAL.

### **2.3.2. NOTICE REGISTER CONTENTS**

The contents of each issue vary weekly depending on the elements included. Potential elements in any given week are:

1. Notices of Proposed Regulatory Action
2. Summaries of approved regulations filed with the Secretary of State the previous week
3. Summaries of regulation decisions issued during the previous week and summaries of the reasons for OAL disapproval of a proposed regulation
4. The quarterly index of regulation decisions
5. An agency's request for review of an OAL disapproval decision, OAL's response to the agency request for review, and the Governor's decision
6. Determinations issued pursuant to Government Code section 11340.5
7. General Interest Public Notices
8. Petition decisions pursuant to Government Code section 11340.7
9. Periodic indices of regulations approved and filed with the Secretary of State
10. OAL announcements
11. An annual Rulemaking Calendar

A typical issue of the Notice Register varies from 20 to 60 pages. One issue per year includes the Annual Rulemaking Calendar, which is approximately 1400 pages in length.

### 3. MINIMUM QUALIFICATIONS FOR PROPOSERS

Proposers are required to demonstrate ability and resources to perform the CCR publication contract by including the information specified in this section with their proposals.

**Proposals will be evaluated and scored based on the requirements listed in Section 3.1 through 3.7 (inclusive), and on the compensation offered pursuant to Section 4.4.**  
See Section 5.8, "Evaluation," for information about scoring.

OAL considers the most important factors in a successful partnership to be:

- Timely, accurate and professionally presented hard copy, electronic and Internet publication of the CCR and Notice Register;
- Consistency and synchronicity of the hard copy, electronic and Internet publications;
- Functionality and ease of use of the Internet version of the CCR;
- A professional, cooperative and close day-to-day working relationship between the contractor and the staff of OAL;
- Use of reliable up-to-date technology;
- Data protection, security, and system reliability;
- Positive impact on the people of California;
- Minimal impact on existing customers.

#### 3.1. BUSINESS REQUIREMENTS

##### 3.1.1. FINANCIAL CAPABILITY

Proposers are required to demonstrate their Financial Capability to fulfill the requirements of the CCR publication contract, including ability to pay the **Damages** specified in Section 8, Exhibit D ("Special Terms and Conditions") in the event of non-performance. To satisfy this requirement the proposer shall submit a certified financial statement, including applicable notes, reflecting the proposer's assets, liabilities, net worth, revenues, expenses, profit or loss, and cash flow for the most recent calendar year or most recent fiscal year; or, if a certified financial statement is not available, then either a reviewed or compiled statement from an independent accounting firm setting forth the same information required for the certified financial statement.

##### 3.1.2. PLACE OF PERFORMANCE

The contractor shall specify the locations at which work will be performed under the CCR publication contract. If work will be performed in more than one location, the contractor must specify the parts of the work to be performed at each location. Alternate locations for performing work, which would be utilized in the event of a disaster or other interruption of business, shall also be specified.

The term "work" includes editorial, manufacturing, marketing, sales, distribution, customer service, and any other operation or procedure necessary to perform the obligations set forth in this RFP.

For any work to be performed in California, the contractor shall agree to comply with all requirements of California law.

### **3.1.3. SUBCONTRACTORS**

The proposer must submit the names and addresses of any subcontractor the proposer intends to use, the obligations that will be performed by subcontract, a listing of key personnel to be employed by the subcontractor, a resume for each, and a summary of comparable work performed by the subcontractor. During the contract, any changes in subcontractors or the obligations to be performed by subcontract must be approved by the Director of OAL. The State reserves the right to reject any proposed subcontractors at any time.

Subcontractors and their staff are subject to all requirements and provisions of the contract, including, but not limited to, confidentiality of data, conflict of interest, and any and all requirements with regard to disclosing data or information.

## **3.2. *EXPERIENCE***

### **3.2.1. EXPERTISE AND STAFFING**

Proposers are required to demonstrate that they are familiar with the technical editorial requirements inherent in publication of official government codes and regulations, that they comprehend the nature and structure of the Official CCR and Notice Register, and that their staff is capable of performing the requirements of the CCR publication contract. To fulfill this requirement, the proposer shall submit a company profile which includes the number of years in business and a chart showing the current organizational structure. The proposer shall also describe in detail its experience with the publication of government codes and/or regulations, describe its knowledge of the nature and structure of the Official CCR and Notice Register, and shall provide the following information concerning its staff:

- Identification of the project administrator assigned to this project;
- A description of qualifications of key personnel to be employed in the direct support of this contract (excluding administrative support);
- A statement indicating the responsibilities each staff member will have while supporting this project;
- A resume for each person listing experience and education, including but not limited to skills involving proofreading, updating, indexing, or annotating official government or legal publications, or editorial analysis and preparation of official regulatory or statutory text;
- A summary of any similar work performed by each staff person for each service being proposed.

### **3.2.2. WORK SAMPLES**

Proposers must provide four samples of actual work performed for hard copy and Internet publishing projects. Two samples must relate to hard copy publishing projects and two samples must relate to Internet publishing projects. One of the two hardcopy samples provided should relate to a publication issued weekly to provide a basis for comparison with the CCR Supplement or Notice Register. All samples must meet the following requirements:

- At least one hard copy and one Internet publishing project must have been performed within the last 24 months;
- Tasks performed must have included official government or legal or technical editing and proofreading, with accuracy requirements comparable to OAL's requirements;
- Volume of hard copy and Internet published material must be of sufficient volume to provide a meaningful comparison to OAL's requirements;
- The hard copy and Internet published material must have required timeframes similar or comparable to OAL's requirements.

### **3.2.3. CUSTOMER REFERENCES**

Proposers must provide four customer references for hard copy and Internet publishing projects. Two references must relate to hard copy publishing projects and two references must relate to Internet publishing projects. Each reference must relate to an official government, or legal or technical project. Contractors may use subcontractors and the subcontractor's references to meet these requirements.

Each reference must include the following information:

- Title of the project or engagement
- Name of the entity
- Brief description of the project
- Contact name, telephone number and address (include website if available)

By furnishing the references, the proposer gives the state permission to contact the named entities to discuss the proposer's past performance.

### **3.3. IMPLEMENTATION AND TRANSITION PLAN**

Each proposal must include an Implementation and Transition Plan which demonstrates how the proposer plans to fulfill the requirements of the CCR publication contract. The Implementation and Transition Plan shall include specific timeframes to demonstrate how the proposer plans to implement the contract from the date of contract award through the end of February 2006.

Proposers must also describe their approach to an orderly transition at the start of the contract and upon contract termination or completion, including a description of the

contractor's proposed plan for outreach and communication with existing customers. Proposers must set forth a list of any problems anticipated to occur during implementation and/or transition, and provide a proposed solution for each problem identified.

Proposers must describe their approach for the transfer of data to OAL at the end of the contract. This plan should include:

- Transfer of the full and complete CCR Master Database and any Notice Register database to OAL at contract completion;
- Plans to communicate with subscribers upon the termination of the contract;
- Transfer of the full and complete subscriber list for all subscriptions for the Official CCR, Notice Register, or any portion thereof, including name, address, product and the remaining term for each subscription, to OAL at contract completion;
- Transfer of the full and complete list of entities granted a license to publish all or part of the CCR or Notice Register, including name, address, material licensed and the remaining term of the license, to OAL at contract completion.

### **3.4. AVAILABILITY AND OPERATIONAL RECOVERY PLAN**

The contractor shall propose at least one alternative plan or arrangement for production of print and electronic versions of the CCR and Notice Register, should any event or circumstance, including a natural disaster, cause a business interruption affecting production, shipment, and/or access to the CCR Master Database or any other necessary database(s). Proposers must describe backup, recovery and archiving procedures to be implemented to ensure the security of CCR and Notice Register data, including the following minimum elements:

- Methods of securing data against unauthorized alteration;
- Availability of the Internet CCR 24 hours a day, 7 days a week, excluding scheduled maintenance, approved by OAL, not to exceed 2 hours per week;
- Frequency of backup and offsite storage;
- Proposed offsite backup of databases;
- Alternative sites for printing and computer processing in the event of disaster;
- Description of fire suppression systems for computer equipment;
- Description of auxiliary power sources for computer equipment;
- Training and/or experience of contractor in mitigating risks related to unexpected events and natural disasters;
- Recovery from system failure or unscheduled downtime within 2 hours;
- Recovery from natural disasters within 5 working days.

### **3.5. ACCURACY PLAN**

Proposers must demonstrate that they can competently ensure accuracy of the publications covered by the CCR publication contract. To fulfill this requirement, proposers must provide a detailed accuracy plan describing the steps to be taken to ensure that 100% accuracy levels are met. At a minimum, the Accuracy Plan provided must include the following components:

- A guarantee of 100% accuracy of updates to the CCR, as well as the proposed remedy in the event the accuracy falls below that percentage;
- A guarantee of correction of errors within 30 days of notification;
- A recognition that some errors may be of a nature that requires more immediate correction, and an expression of willingness and ability to accommodate requests by OAL for immediate correction;
- A guarantee that errors verified by OAL (whether identified by the publisher, OAL or another source) will be corrected in the subsequent update or issue cycle whenever practicable, but no later than 30 days following the identification of the error;
- A reporting mechanism (e.g. a monthly tracking report) by which OAL can easily monitor the accuracy of the CCR.

**Please note: The importance of integrity and accuracy in the publication of official regulations and Notices cannot be over-emphasized.** OAL and the current publisher will be responsible for the accuracy of the one-time data supplied to the contractor at the start of the contract. The contractor awarded the CCR publication contract will be responsible for the accuracy of the conversion of that data, as well as accuracy of the regular updates to the CCR and publication of the weekly Notice Register. For purposes of the CCR, “accurate” is defined as conforming to the content of documents filed with the Secretary of State, and “error” is defined to mean any content that deviates from the content as filed with the Secretary of State.

### **3.6. ONLINE CCR PLAN**

***OAL strongly desires “user-friendly” improvements to the existing online CCR. Proposers are encouraged to propose a solution which addresses existing obstacles to ease of use (e.g. an inability to scroll through or print entire sections easily).***

Proposers must submit a detailed description of changes they propose to the existing online CCR, describe specifically how the proposed changes would provide improvements, and explain whether the proposed changes would increase or decrease response time for users. (NOTE: The online CCR may be accessed from OAL’s website: [www.oal.ca.gov](http://www.oal.ca.gov))

Proposers must describe in detail how their proposal will alter the existing online CCR to enhance:

- Presentation;
- Accessibility by persons with disabilities to comply with state and federal requirements;
- Ease of navigation;
- Ease of printing;
- Ease of scrolling through blocks and sections of text.

Proposers are encouraged, but not required, to offer additional enhancements to the online CCR through links to other relevant sites, text hyperlinks, or similar enhancements.

### **3.7. SCOPE OF WORK PERFORMANCE PLAN**

Proposers must demonstrate their commitment and ability to perform each of the required publication services enumerated in Section 4.3 of this RFP. To fulfill this requirement, each proposer shall submit a detailed description specifying how it plans plan to fulfill each requirement enumerated in Section 4.3 for the publications covered by the CCR publication contract.

## 4. SCOPE OF WORK

### 4.1. OVERVIEW

The key services the contractor must perform are:

1. Publish the California Code of Regulations in a customary professional, 8½ x 11 inch, three-hole punched, hard copy form, as well as CD-ROM, and update the CCR by publishing the California Code of Regulations Supplement on a weekly basis, and
2. Publish the California Regulatory Notice Register on a weekly basis in a format that is of comparable appearance and quality to the existing version, and
3. Provide free online access to the California Code of Regulations and the California Regulatory Notice Register from a link on OAL's website.

The contractor shall update the Official CCR within 30 days after delivery of the final approved regulations and/or related material submitted by OAL for publication. The contractor shall update the online version of the CCR one day (24 hours) after the shipment (issue date) of each CCR Supplement. The contractor shall publish the Notice Register each Friday with content provided the previous week by OAL.

### 4.2. INTELLECTUAL PROPERTY RIGHTS

The Official CCR, Notice Register and the Master Database, in all forms, are the sole and exclusive property of the State of California. OAL will retain ownership of all data, authority and reference citations, history notes and text of regulations that are originated, developed, prepared, used or obtained by state agencies. See Section 8, Exhibit D ("Special Terms and Conditions") for details.

### 4.3. REQUIRED PUBLICATION SERVICES

**By submitting a proposal in response to this RFP, the contractor acknowledges the importance of, and commits to, performing each of the requirements identified in Section 4 of this RFP.**

#### 4.3.1. OFFICIAL CCR MASTER DATABASE

The contractor shall maintain the Official California Code of Regulations on an electronic database, which for purposes of this RFP shall be referred to as the "Master Database." The Master Database must be the source for all hard copy text and electronic products as well as the source for the contents of the online CCR.

Constant and accurate updating of the CCR Master Database is a key component of the CCR publication contract. The contractor must update the Master Database within 30 days of approved regulations being filed with the Secretary of State. The text of regulations and

all other items in the Master Database shall be subject to inspection, revision, and correction by OAL.

The CCR Master Database shall consist of material not subject to any claims of ownership or copyright, except those of OAL on behalf of the State of California. The CCR Master Database shall include tables of contents, captions, regulation text, authority and reference citations, and history notes.

Upon completion of the current contract, the current publisher will provide OAL with a useable electronic database containing the CCR data. The contractor selected for the CCR publication contract shall use this database to publish the CCR.

(Notices and other material to be published in the Notice Register may be made part of the Master Database or may be maintained separately. If the contractor chooses to maintain Notice Register data in a separate database, that database must meet all requirements imposed on the CCR Master Database.)

#### **4.3.2. OFFICIAL CALIFORNIA CODE OF REGULATIONS**

The contractor shall publish the Official CCR on 8½ by 11 inch pages, loose leaf, in a form which assures that pages can be easily inserted into standard three-ring binders. Text paper shall be 20 lb. standard weight, text shall be printed in black, and font size shall be no smaller than that used in the current Official CCR. (The contractor may offer binders for sale to subscribers but shall not require any subscriber to purchase binders.)

The formal hierarchical structure of the existing CCR shall be maintained. The contractor shall accurately and legibly print regulations as filed with the Secretary of State, including all charts, graphs, tables, illustrations, notes, graphics, etc.

Each volume of the Official CCR shall contain the following:

1. List of contents inside the front cover which describes completely the contents from Title to Section and includes all subdivisions in between;
2. Title page;
3. Complete text of regulations, including all narrative text, appendices, prefaces, footnotes, endnotes, tables, graphics, illustrations and similar items that are part of regulatory material designated by OAL for publication;
4. Authority and reference citations for each section as included with the regulation text filed with the Secretary of State;
5. History notes for each section to be prepared by the publisher based on a template or set of instructions provided by OAL (or select custom history notes prepared by OAL);
6. The Register number and publication date of the last revision on each page, reflecting the last date any item on that page was affected by a regulatory filing with the Secretary of State or otherwise revised;
7. Such other materials as OAL may direct to be published.

OAL must approve the format of the Official CCR prior to initial publication, and must approve any future format changes.

#### **4.3.2.1. CCR SUPPLEMENT**

The regulations filed in each calendar week make up a weekly “register,” which the contractor shall publish as the weekly California Regulatory Code Supplement to update the CCR. The contractor shall number the weekly registers by year and week; and shall publish each issue of the Supplement within 30 days after delivery of the final approved regulations and/or related material submitted by OAL for publication. The Supplement shall be formatted, compiled and distributed in a form which assures that users can easily replace updated pages of the Official CCR.

#### **4.3.2.2. MASTER TABLE OF CONTENTS**

The contractor shall publish a Master Table of Contents with a complete breakdown of all regulations in all titles (excluding Title 24) by Title, Division, Chapter, Subchapter, Group and Subgroup where applicable, and Article. The Master Table of Contents shall be updated at least quarterly.

#### **4.3.2.3. UPDATING TABLES OF CONTENTS**

If regulatory material filed by OAL with the Secretary of State includes new or revised tables of contents for the regulations being adopted, amended, or repealed, the contractor shall publish this tables of contents material in the form of new or replacement tables of contents pages in the CCR Supplement which includes the added or revised regulation text.

If regulatory material filed by OAL with the Secretary of State includes entire new articles or larger subdivisions (e.g. a new chapter, etc), the contractor shall update the division level Table of Contents when it publishes the new material. The contractor shall update the Tables of Contents at least quarterly.

#### **4.3.3. MASTER INDEX**

The contractor shall create, publish, and distribute a Master Index to which the contractor shall retain all intellectual property rights. The Master Index shall include a Table of Statutes to Regulations, listing all of the California statutes cited in the Authority and Reference notes following each section of the CCR. The Master Index may, in the contractor’s sole discretion, also include other appropriate research references, annotations and other editorial material. Master Indices shall bear on the title page the following statement: “The Master Index has not been reviewed by the Office of Administrative Law and is not part of the Official California Code of Regulations.” The contractor shall publish the Master Index no later than 120 days after award of the CCR publication contract.

The contractor may copyright the Master Index. If the contractor declines to obtain a copyright on its own behalf, the contractor shall obtain a copyright in the name of OAL on

behalf of the State of California. All expenses of obtaining such copyright, either on behalf of the contractor or OAL, shall be the responsibility of the contractor.

#### **4.3.4. CD-ROM CCR**

The contractor shall publish the CCR on CD-ROM monthly at a minimum. The CD-ROM CCR shall contain all elements of the Official CCR and shall accurately reflect the contents of the Official CCR.

#### **4.3.5. ONLINE CCR**

The contractor shall make available on the Internet and free to the public an electronic version of the California Code of Regulations which is capable of accommodating a large number of simultaneous users (see the Appendix, Tab 6, "Internet CCR Website Usage Analysis" for minimum requirements). The contractor shall ensure that the online CCR meets the following minimum requirements:

Content: The online CCR shall accurately reflect the most recent Official CCR and Master Table of Contents as published in hard copy.

Format: The online CCR shall include any necessary information, software, and technical support to make the complete CCR available, including graphics, tables, forms and any other material included in the Official CCR.

Timing: The contractor shall update the online CCR no later than 24 hours after the weekly Regulatory Code Supplement has been issued. The Supplement is not required to be available separately online. The "home page" shall accurately reflect the date on which the online CCR was last updated.

Accuracy: The contractor shall ensure that the online CCR accurately reflects the most recent weekly updated version of the Official CCR; that it is complete and contains all the material defined as part of the Official CCR; and that it is fit for publication on the Internet.

User-Friendly: The contractor shall provide users with a universal search capability and shall ensure that users can search, view, and print with reasonable ease of use.

Accessible to Persons with Disabilities: The contractor shall ensure that the online CCR complies with applicable state and federal requirements for accessibility by persons with disabilities.

#### **4.3.6. CALIFORNIA REGULATORY NOTICE REGISTER**

The contractor shall publish the Notice Register each week on 8½ by 11 inch pages, three-hole punched, in a format of comparable quality to that currently in use. Text shall be printed in black; font size shall be no smaller than 10 point for text within paragraphs.

Once each year, as directed by OAL, the Notice Register shall include the Annual Rulemaking Calendar pursuant to Government Code section 11017.6. The contractor may provide print subscribers with the Annual Rulemaking Calendar on CD-ROM instead of paper, but shall provide a print version upon request by any subscriber.

#### **4.3.7. ONLINE NOTICE REGISTER**

Each issue of the Notice Register shall also be made available from a link on OAL's website and published online no later than one day (24 hours) after sending out the hardcopy version of that issue of the Notice Register. Each online version of the Notice Register shall fully and accurately reflect the complete contents of the print version of that issue of the Notice Register.

Each item listed in the online Table of Contents shall include a link so that clicking on that item in the Table of Contents takes the user to that item in the text of the Notice Register.

Past versions of the Notice Register are currently posted by OAL on its website. The Notice Register link established by the publisher shall provide continued access to these past versions.

#### **4.3.8. TRANSMISSION OF MATERIAL TO BE PUBLISHED**

OAL will furnish to the contractor, at the contractor's expense, all regulations, Notices and any other material designated for publication under the CCR publication contract. OAL will provide the contractor with paper copies of approved regulations on a daily basis. The contractor's method for collection and delivery shall provide for routine delivery not more than 24 hours after OAL files approved regulations with the Secretary of State. OAL will provide the contractor with paper copies of approved Notices once each week.

PLEASE NOTE: State agencies are not currently required to submit proposed regulations or Notices in an electronic form. Transmission of regulation text to and from OAL is conducted almost totally by manual exchange of paper copies of documents. Notices for publication in the Notice Register are also currently submitted on paper. The contractor must translate hard copy regulations and Notices into an electronic database from which the Official CCR and Notice Register shall be published. OAL is open to a proposal which provides flexibility to accommodate future technological changes that may streamline the work to be performed by OAL and publishing staff, but OAL has no obligation to provide documents in an electronic form if such is not available from its own resources.

If desired, the contractor may receive an unofficial advance copy of proposed regulations prior to review and action by OAL, to be transmitted to the contractor at the contractor's expense. The contractor shall understand that these unofficial advance copies of regulations may be revised before filing or may never be filed with the Secretary of State, and may therefore not become part of the Official CCR. The contractor may also elect to receive an unofficial advance copy of Notices submitted for publication in the Notice Register.

OAL will, on the day of filing any addition or revision to the CCR with the Secretary of State, inform the contractor of the filing and the date of filing and will send the contractor one copy of the new or revised regulations as filed. OAL will promptly advise the contractor if it disapproves any addition or revision to the CCR. Information about approved or disapproved regulations will be contained in a Daily Action Report which OAL will email to the contractor each day with the following information:

1. OAL File Number
2. Title affected
3. Agency
4. OAL Action (Approval/Disapproval)
5. Date of filing with Secretary of State

The Director of OAL, or designated representative, and the contractor's representative shall, on the request of either party or at reasonable intervals, meet and confer on how transmitted regulations, Notices and other material are being utilized to fulfill the contractor's obligations under the CCR publication contract.

#### **4.3.9. COPIES OF PUBLICATIONS**

The contractor shall provide OAL with current versions of the following publications, at no cost, and for the exclusive use of OAL:

- Up to six (6) full subscriptions to the Official CCR and weekly Supplement in hard copy;
- Three (3) copies in hard copy of the Master Table of Contents, as updated;
- Three (3) copies in hard copy of the Master Index, as updated;
- One (1) complete CCR on CD-Rom weekly, if possible, monthly, at a minimum;
- Twelve (12) copies of each issue of the California Regulatory Notice Register;
- One (1) complete replacement set of CCR binders every year.

The contractor shall additionally publish and provide at no cost to OAL up to 1000 copies annually of a compilation of selected statutes and regulations affecting rulemaking in California. The sections to be published shall be specified by OAL and shall include, but are not limited to, Government Code, Title 2, Chapter 3.5, Administrative Regulations and Rulemaking, and CCR Title 1, Division 1, Office of Administrative Law.

In addition, the contractor shall provide, free of charge, one hundred fifty-eight (158) subscriptions of the hard copy version of the CCR (or, at the recipient's option, in CD-ROM or other mutually agreeable electronic format) to the following public officials or agencies: Fifty-eight (58) copies to county clerks or their designee, pursuant to Government Code section 11343.5; and one hundred (100) copies to state depository libraries, pursuant to Government Code sections 14900-14912.

The contractor shall provide, free of charge, one hundred (100) subscriptions of the hardcopy version (or, at the recipient's option, in CD-ROM or other mutually agreeable

electronic format) of the Notice Register to state depository libraries, pursuant to Government Code sections 14900-14912.

#### **4.3.10. ACCURACY**

The contractor shall provide for thorough proofreading and correction of all text submitted by OAL for publication in the CCR or Notice Register. The contractor shall proofread regulation text to be published against the final regulation text as filed with the Secretary of State. The proofreading shall be done at a level of accuracy satisfactory to OAL. OAL defines “satisfactory” as zero percentage (0%) of error rate in the hard copy version of the Official CCR.

The contractor shall not make changes to the text of regulations, Notices or any other materials furnished by OAL, except as directed or authorized by OAL. The text of regulations and all other items in the Official CCR database, as well as editorial enhancements to regulations or Notices, shall be subject to inspection, revision, and correction by OAL. Questions regarding the text of regulations or Notices shall be promptly called to the attention of OAL’s Director or designated representative.

Inferior, unprofessional, or unsatisfactory work shall be rejected and returned to the contractor for prompt correction at no additional cost to the State or CCR subscribers. OAL’s inspection, revision, and acceptance of work shall not be considered a waiver of the contractor’s duty to correct, at the contractor’s own expense, errors or defects discovered later.

All editorial work shall be performed at the contractor’s expense. Editorial duties include data preparation, formatting, and typographical composition work for both the print and electronic versions of the CCR and Notice Register. The contractor shall keep the Director of OAL advised in writing in advance of any proposed changes in the method and manner of performing editorial work covered by the CCR publication contract.

#### **4.4. COMPENSATION**

In exchange for being granted the exclusive rights to publish the Official California Code of Regulations and the California Regulatory Notice Register, the contractor shall compensate the State of California by paying an annual license fee or a royalty based on net revenues, or both. As used in this section, “net revenues” means all sales proceeds less returns, discounts refunded to the customer, and, if not charged separately but included in the sales price, sales taxes, transportation and handling, and, in addition, all revenues received from licenses to third parties (including affiliated companies) without any reduction.

If the compensation includes an annual license fee, the fee shall be paid in advance, at quarterly intervals, beginning with the commencement of the CCR publication contract. No portion of the annual license fee shall be refundable during a quarter notwithstanding early termination of the contract.

If the compensation includes a royalty, the contractor shall specify the manner and timing (at a minimum, at quarterly intervals) of any royalty payments to the State, and manner in which the contractor proposes to share its financial information with the State for auditing in accordance with generally accepted auditing principles. No portion of any royalty payment shall be refundable notwithstanding early termination of the contract.

The contractor may propose an offset as compensation for maintaining free Internet versions of the CCR and Notice Register. Any offset so proposed will be subtracted from any amount offered as an annual license fee to determine the net annual fee. (See Section 7.5, "Volume 2: Compensation Sheet" for details.)

**The proposal must include a completed Compensation Sheet (See Section 7, "Required Attachments" and Section 5.4, "Proposal Submission Requirements" for details).**

## 5. RULES GOVERNING COMPETITION

The State intends to conduct a competitive procurement which will accomplish its purposes with sole reference to the public interest. This solicitation will provide for full and fair competition in an environment where all proposers are evaluated fairly and objectively on the same end objectives.

### 5.1. KEY ACTION DATES

| EVENT                                      | DATE                                |
|--|-------------------------------------|
| Request For Proposals issued:              | October 4, 2005                     |
| Written Question Submittal Deadline:       | October 17, 2005                    |
| OPTIONAL Bidder's Conference:              | October 19, 2005 [10:00 A.M.]       |
| <b>Final Date for Proposal Submission:</b> | <b>November 4, 2005 [5:00 P.M.]</b> |
| Notice of Intent to Award:                 | November 21, 2005                   |
| Anticipated Award Date:                    | December 1, 2005                    |

### 5.2. BIDDER'S CONFERENCE

An optional bidder's conference will be held on October 19, 2005, at 10:00 a.m., at the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, California (916/323-6225). During the conference, potential bidders will be afforded the opportunity to meet with OAL personnel and discuss the content of this RFP and the procurement process. Persons wishing to attend the optional bidder's conference are asked to notify the contact person listed in Section 1 no later than October 14, 2005.

Prior to the conference, prospective bidders may submit any questions concerning the RFP in writing to the contact person identified in Section 1. OAL will accept oral questions during the conference and will make a reasonable attempt to provide answers prior to the conclusion of the conference. The bidder's conference is for informational purposes only and no statement by OAL or by any contractor shall modify any of the requirements of this RFP. No transcript will be available of the bidder's conference.

OAL will provide a reasonable accommodation to anyone needing assistance due to a physical impairment. Any person needing such assistance must call Linda Brown at (916) 323-8915 no later than five working days prior to the scheduled date of the Bidder's Conference to arrange for a reasonable accommodation.

### 5.3. INTEREST IN SOLICITATION PROCESS

Persons who have been furnished a copy of this Request for Proposals ("RFP") for bidding purposes are asked to state their intention by submitting a letter indicating interest in this solicitation process to the contact person specified in Section 1. **Only persons who**

**acknowledge an interest in this RFP by submitting a letter indicating interest in the solicitation process will receive any future correspondence regarding this RFP.**

#### **5.4. PROPOSAL SUBMISSION REQUIREMENTS**

Proposals must be submitted in a sealed package or envelope plainly marked “**RFP – CCR – 2005**” and must be conspicuously marked “**CONFIDENTIAL**” or “**DO NOT OPEN.**”

Proposals must be mailed or delivered to the following address: Office of Administrative Law, ATTN: Linda C. Brown, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814.

Proposals not submitted under sealed cover and marked as indicated may be rejected.

All proposals must be submitted to OAL by the close of business (5:00 p.m.) on the proposal submission deadline specified in the Key Action Dates. Each proposal will be date stamped by OAL when it is received. **Proposals received after the deadline will not be considered.**

**The proposer must submit one original and four copies of the proposal.** The original proposal must be marked “ORIGINAL COPY”. All documents contained in the original copy must have original signatures and must be signed by a person who is authorized to bind the proposing firm. All additional proposal sets may contain photocopies of the original package.

**Proposals should provide straightforward and concise descriptions of the proposer’s ability to satisfy the requirements of this RFP. The proposal must respond to all requirements and shall include the documents identified in Section 7, “Required Attachments.” The proposal must be complete and accurate. Omissions, inaccuracies or misstatements may be cause for rejection of a proposal.**

With the exception of sample work materials described in Section 3, proposals must be on 8½ by 11 inch paper. The use of expensive binding, etc., is not necessary or desired. Emphasis should be placed on conformance to the solicitation instructions, responsiveness to the solicitation requirements, and on completeness and clarity of content.

Proposals are to be submitted in two volumes as follows.

Volume 1:

- Cover Letter
- Table of Contents
- Executive Summary
- Responses to Minimum Qualifications (see Section 3)
- Required Attachments (see Section 7)

Volume 2:

- Compensation Sheet (see Section 7)

**IMPORTANT: Volume 2 must be submitted separately sealed and be clearly labeled: “Compensation Sheet.” The nature of the envelope or package containing Volume 2**

***must be such that the text of the contents are fully obscured. The envelope or package containing Volume 2 will be safeguarded by the person in charge of this procurement and will not be opened until all proposals deemed responsive have been evaluated and scored for the provision of services described in this RFP. Proposers should be sure that no compensation information of any type is shown anywhere in their proposal other than the sealed Compensation Sheet. The inclusion of compensation information in any other place in its proposal may result in rejection of the proposal.***

A proposal may be rejected if it is conditional or incomplete, or if it contains any alterations of form or other irregularities of any kind. OAL may reject any or all proposals and may waive an immaterial deviation in a proposal. OAL's waiver of an immaterial deviation shall in no way modify the RFP document or excuse the proposer from full compliance with all requirements if awarded the contract.

Costs incurred for participating in the solicitation and developing proposals or in anticipation of award of the agreement are entirely the responsibility of the proposer and shall not be charged to the State of California.

Before submitting a response to this solicitation, proposers should review, correct all errors and confirm compliance with the RFP requirements.

***By submitting a proposal in response to this RFP, the proposer acknowledges that they have fully read and understand the terms of this RFP and the attached contract and they agree to be bound by all terms if awarded the contract. The State's contract language, including but not limited to the scope of work, General Terms and Conditions and Contractor Certification Clauses are non-negotiable. Proposals containing any modifications or alternatives to such provisions will be deemed counterproposals and will be rejected as non-responsive.***

#### **5.4.1. MODIFICATION OR WITHDRAWAL**

A proposer may modify a proposal after its submission by withdrawing the original proposal and submitting a new proposal prior to the proposal submission deadline as set forth in the Key Action Dates. Proposal modifications offered in any other manner, oral or written, will not be considered. No oral understanding or agreement shall be binding on either party.

A proposer may withdraw its proposal by submitting a written withdrawal request to OAL, signed by the proposer or an authorized agent. A proposer may thereafter submit a new proposal prior to the proposal submission deadline. Proposals may not be withdrawn without cause after the proposal submission deadline.

#### **5.5. ADDENDA**

OAL may modify the RFP prior to the date fixed for submission of Proposals by issuing an addendum to all persons who have submitted a letter indicating interest in this solicitation

process prior to the time the addendum is issued. Addenda will be numbered consecutively and identified by date. Any addenda to this RFP shall become part of this RFP and part of any contract resulting from this RFP.

## **5.6. ERROR OR AMBIGUITY IN RFP DOCUMENTS**

If a bidder discovers any ambiguity, conflict, discrepancy, omission, or other error in this RFP, the bidder shall immediately notify OAL of such error in writing and request clarification or modification of the document. If this RFP contains an error known to the Bidder, or an error that reasonably should have been known, the bidder shall bid at its own risk. If the bidder fails to notify OAL of the error prior to the date fixed for submission of bids, and is awarded the contract, the State of California shall be held harmless for any effect of such an error or its later correction.

## **5.7. FALSE OR MISLEADING STATEMENTS**

Proposals which contain false or misleading statements may be rejected. If, in the opinion of OAL, such information was intended to mislead the State in its evaluation of the proposal, and the attribute, condition or capability is a requirement of the solicitation, it will be the basis for rejection of the proposal.

## **5.8. EVALUATION**

### **5.8.1. GENERAL**

Proposals will be reviewed, evaluated and scored by an Evaluation Committee composed of OAL staff. The Evaluation Committee will base its evaluation solely on the information submitted in the proposal. However, the Evaluation Committee may choose to make use of the confidential advisory expertise of outside private counsel and/or other state personnel.

### **5.8.2. EVALUATION STAGES**

Proposals will be submitted in two volumes, Volume 1 and Volume 2, as directed in Section 5.4 of this RFP. The Evaluation Committee will evaluate each of the volumes separately as follows:

- 1) Volume 1 will be opened, evaluated, and scored first. There are two steps in the Volume 1 evaluation. The first step is an administrative review which results in a pass/fail. The second step is an evaluation where the Evaluation Committee will review, analyze and score the proposals based on the requirements specified in Section 3, "Minimum Qualifications for Proposers." See Section 5.8.4 "Evaluation Criteria" for scoring details.
- 2) OAL may require a demonstration as described in Section 5.8.3.
- 3) After the Evaluation Committee has completed its review and assigned points to Volume 1 for all proposals (and a demonstration, if required, has been completed), Volume 2 will be opened and scored.

- 4) The Evaluation Committee will determine a total score for each proposal by adding the scores from both Volume 1 and Volume 2 evaluation processes.
- 5) Upon completion of the steps described above, OAL, if satisfied, may make an award to the contractor with the highest total score.
- 6) The Evaluation Committee may reject all proposals if none are considered in the best interest of the State.

### **5.8.3. PRODUCT DEMONSTRATION**

OAL may require contractors to provide a demonstration of their capabilities to meet all requirements of the CCR publication contract. The demonstration, if required by OAL, is intended to afford the State the ability to verify the claims made by the contractor in its proposal and to corroborate the evaluation of the contractor's proposal. If such a demonstration is required and the contractor fails to demonstrate to OAL's satisfaction that the claims made by its proposal are, in fact, true, OAL may deem the contractor's proposal non-responsive. OAL reserves the right to determine whether or not a contractor has successfully passed a demonstration.

If OAL determines that a demonstration is necessary, the location of the demonstration will be determined by the contractor, although demonstration within California is preferred. Demonstrations outside California will be attended only if the contractor agrees to cover all reasonable expenses including transportation and lodging.

### **5.8.4. EVALUATION CRITERIA**

Proposals will be evaluated and scored according to the criteria enumerated on the next page. A chart showing the evaluation scoring system follows the Evaluation Criteria page.

## EVALUATION CRITERIA\*

|   |                                 |
|---|---------------------------------|
| <b>ADMINISTRATIVE REQUIREMENTS</b> <ul style="list-style-type: none"> <li>▪ Received by Deadline</li> <li>▪ Package or Envelope Marked “Confidential” or “Do Not Open”</li> <li>▪ Original plus 5 Copies</li> <li>▪ Signed Original</li> <li>▪ Volume 2 Sealed Separately</li> <li>▪ Required Attachments Included</li> </ul> | (circle one)                    |
|   | YES/NO                          |
|   | YES/NO                          |
|   | YES/NO                          |
|   | YES/NO                          |
|   | YES/NO                          |
|   | <b>PASS/FAIL</b>                |
| <b><u>SCORED ELEMENTS</u></b>   | <b>Maximum points available</b> |
| <b>BUSINESS REQUIREMENTS</b><br><i>(See RFP Section 3.1)</i> <ul style="list-style-type: none"> <li>▪ FINANCIAL CAPABILITY <i>(Section 3.1.1)</i></li> <li>▪ PLACE OF PERFORMANCE <i>(Section 3.1.2)</i></li> <li>▪ SUBCONTRACTORS <i>(Section 3.1.3)</i></li> </ul>  | <b>5 points</b>                 |
| <b>EXPERIENCE</b><br><i>(See RFP Section 3.2)</i> <ul style="list-style-type: none"> <li>▪ EXPERTISE AND STAFFING <i>(Section 3.2.1)</i></li> <li>▪ WORK SAMPLES <i>(Section 3.2.2)</i></li> <li>▪ CUSTOMER REFERENCES <i>(Section 3.2.3)</i></li> </ul>  | <b>15 points</b>                |
| <b>IMPLEMENTATION AND TRANSITION PLAN</b><br><i>(See RFP Section 3.3)</i>   | <b>5 points</b>                 |
| <b>AVAILABILITY AND OPERATIONAL RECOVERY PLAN</b><br><i>(See RFP Section 3.4)</i>   | <b>5 points</b>                 |
| <b>ACCURACY PLAN</b><br><i>(See RFP Section 3.5)</i>  | <b>10 points</b>                |
| <b>ONLINE CCR PLAN</b><br><i>(See RFP Section 3.6)</i>  | <b>20 points</b>                |
| <b>SCOPE OF WORK PERFORMANCE</b><br><i>(See RFP Section 3.7)</i>  | <b>10 points</b>                |
| <b>COMPENSATION</b>   | <b>30 points</b>                |
| <b>MAXIMUM POSSIBLE POINTS</b>  | <b>TOTAL<br/>100 points</b>     |

\*see next page for a chart of the evaluation scoring system\*

## EVALUATION SCORING SYSTEM

| <b>% of Points Awarded</b> | <b>Interpretation</b>  | <b>General Basis for Point Assignment</b>   |
|----------------------------|------------------------|---|
| <b>0%</b>                  | <b>Inadequate</b>      | Fails to address the requirement(s) being scored or proposer does not describe any experience related to the requirement(s). The omission(s), flaw(s), or defect(s) are significant and unacceptable.   |
| <b>30%</b>                 | <b>Barely Adequate</b> | Minimally addresses the requirement(s) being scored, but one or more major considerations of the requirement(s) are not addressed, or so limited that it results in a low degree of confidence in the proposed solution.                                    |
| <b>70%</b>                 | <b>Adequate</b>        | Proposal response (i.e. content and/or explanation offered) is adequate to meet OAL's needs, requirements or expectations. The omission(s), flaw(s), or defect(s), are inconsequential and acceptable.  |
| <b>80%</b>                 | <b>Good</b>            | Proposal response fully addresses the requirement(s) being scored. Good degree of confidence in the contractor's response or proposed solution. Minimal weaknesses are acceptable.  |
| <b>90%</b>                 | <b>Excellent</b>       | Proposal response fully meets OAL's needs, requirements or expectations with a high degree of confidence in the contractor's response or proposed solution. Proposer offers one or more enhancing feature, method or approach exceeding basic expectations. |
| <b>100%</b>                | <b>Exceptional</b>     | All requirements are addressed with the highest degree of confidence in the contractor's response or proposed solution. The response exceeds the requirements in providing a superior experience, a creative approach, or an exceptional solution.          |

### **5.8.5. TIED BIDS**

In the event of a tied score, the result will be determined by coin toss.

## **5.9. AWARD AND PROTEST**

### **5.9.1. NOTICE OF AWARD**

Notice of Intent to Award the CCR Publication Contract shall be mailed and faxed to all bidders, and shall be posted in a public place in the Office of Administrative Law and on the OAL website ([www.oal.ca.gov](http://www.oal.ca.gov)) for five (5) working days prior to awarding the agreement.

### **5.9.2. AWARD OF CONTRACT**

The contractor submitting the proposal receiving the highest point count (after any applicable preferences have been applied) may be awarded the CCR publication contract.

### **5.9.3. PROTEST**

If any proposer, prior to the award of agreement, files a protest with OAL and the Department of General Services, Office of Legal Services, 707 Third Street, 7<sup>th</sup> Floor, Suite 7-330, West Sacramento, CA 95605, on the grounds that the protesting proposer would have been awarded the contract if OAL had correctly applied the evaluation standard in the RFP, or if OAL had followed the evaluation and scoring methods in the RFP, the agreement shall not be awarded until either the protest has been withdrawn or the Department of General Services has decided the matter. It is suggested that any protest be sent by certified or registered mail.

Within five (5) days after filing the initial protest, the protesting proposer must file with the Department of General Services, Office of Legal Services and the OAL a **detailed** statement specifying the grounds for the protest.

## **5.10. CONFIDENTIALITY/DISPOSITION OF PROPOSALS**

The contents of all proposals, correspondence, agenda, memoranda, working papers, or any other medium which discloses any aspect of a bidder's proposal shall be held in the strictest confidence to the extent allowed by law until Notice of intent to award.

Upon proposal opening, all documents submitted in response to this RFP will become the property of the State of California, and will be regarded as public records under the California Public Records Act (Government Code section 6250 et seq.) and subject to review by the public.

BIDDERS SHOULD BE AWARE THAT MARKING A DOCUMENT “CONFIDENTIAL” OR “PROPRIETARY” IN A FINAL BID WILL NOT KEEP THAT DOCUMENT FROM BEING RELEASED AFTER NOTICE OF INTENT TO AWARD AS PART OF THE PUBLIC RECORD, UNLESS A COURT HAS ORDERED THE STATE NOT TO RELEASE THE DOCUMENT.

#### **5.11. AGREEMENT EXECUTION AND PERFORMANCE**

Performance shall start on January 1, 2006, after all approvals have been obtained and the agreement is fully executed. Should the contractor fail to commence work at the agreed upon time, OAL reserves the right to terminate the agreement upon five (5) days written Notice to the contractor. In addition, the contractor shall be liable to the State of California for the cost incurred by the state in securing another contractor.

## 6. PREFERENCE PROGRAMS, APPLICABLE STATE LAWS

### 6.1.1. SMALL BUSINESS PREFERENCE

Section 14835, et seq. of the California Government Code requires a 5% preference be given to contractors who qualify as a small business. The rules and regulations of this law, including the definition of a small business for the delivery of goods and services, are contained in Title 2, California Code of Regulations, section 1896, et seq. The regulations can be viewed online at [www.pd.dgs.ca.gov/smbus](http://www.pd.dgs.ca.gov/smbus) (click on "Small Business Regulations" in the right sidebar), or a copy can be requested by phone from the Office of Small Business and DVBE Certification at (916) 375-4940.

**New Information Regarding Small Businesses:** A five (5) percent bid preference is now available to a non-small business claiming twenty-five (25) percent California certified small business subcontractor participation. If claiming the non-small business subcontractor preference, the bid response must include a list of the small business(es) with which the Prime Contractor commits to subcontract in an amount of at least twenty-five (25) percent of the bid price with one or more California certified small businesses, and provide documentation that the small business(es) is state-certified. If the non-small business subcontracts with more than one California certified small business to claim this preference, the non-small business must separately list the percent committed to each small business, and that number must total at least twenty-five (25) percent of the bid. Each listed certified small business must perform a "commercially useful function" in the performance of the contract as defined in Government Code Section 14837(d)(4).

**Proposers wishing to claim a small business preference must return the Proposal/Proposer Certification Sheet (see Section 7, "Required Attachments").**

### 6.1.2. DISABLED VETERAN BUSINESS ENTERPRISES (DVBE)

This RFP is exempt from DVBE requirements.

### 6.1.3. TARGET AREA CONTRACT PREFERENCE REQUEST

This preference does not apply to this solicitation.

### 6.1.4. LOCAL AREA MILITARY BASE RECOVERY ACT

This preference does not apply to this solicitation.

### 6.1.5. ENTERPRISE ZONE PREFERENCE REQUEST

This preference does not apply to this solicitation.

#### **6.1.6. AIR OR WATER POLLUTION**

Government Code section 4477 prohibits the State from contracting with a person, including a corporation or other business association, who has been determined to be in violation of any State or federal air or water pollution control law. Government Code section 4481 requires the State Water Resources Control Board and the Air Resources Board to notify State agencies of such persons.

Prior to award of this contract, OAL shall ascertain if the intended awardee is a person included in Notices from the State Water Resources Control Board or the Air Resources Board by reference to boards' Notices. No award will be made to a person who is identified either by the published Notices or by advice, as a person in violation of State or federal air or water pollution control laws.

#### **6.1.7. FAIR EMPLOYMENT AND HOUSING**

Government Code section 12990 requires all State contractors to have implemented a Nondiscrimination Program before entering into any contract with the State. The Department of Fair Employment and Housing ("DFEH") randomly selects and reviews State contractors to ensure their compliance with the law. DFEH periodically disseminates a list of bidders who have not complied. Any bidder so identified is ineligible to enter into any State contract.

#### **6.1.8. ADDITIONAL APPLICABLE STATE LAWS**

For other applicable state laws and requirements, please see the Contractor's Certification Clauses in Section 7.3, and the State of California General Terms and Conditions in Section 8.3.